

REMARKS

Claims 1, 5, and 10-15 are pending after entry of this paper. Claims 2-5, 7, 9, and 12-14 have been rejected. Claim 1 is considered to present an allowable subject matter. Claim 6 and 8 have been objected to. Claims 2-4 and 6-9 have been cancelled and claims 10, 11, and 15 have been withdrawn from further consideration. Applicants reserve the right to pursue cancelled and/or withdrawn claims in a divisional or continuing application.

Claim 1 has been amended to add specific peptide sequences (i.e., 1-20, 5-24, and 2-13 of SEQ ID NO.: 2) referenced in the claim as (B) to (D). Support may be found throughout the instant specification, for example, at paragraph [0014] of the specification as filed, which the Examiner acknowledged is supported by the instant disclosure. (Office Action; pg. 5).

Claims 5 and 12-14 have been amended to remove the dependence from the cancelled claims, e.g., claims 2 and 3.

No new matter has been introduced by these amendments. Reconsideration and withdrawal of the pending rejections in view of the above claim amendments and below remarks are respectfully requested.

Response to Objections made to the Specification

The abstract is objected to because it allegedly does not commence on a separate sheet in accordance with 37 C.F.R. 1.52(b)(4). (Office Action; pg. 3.) Applicants respectfully disagree with said requirement. Applicants do not dispute that 37 C.F.R. 1.52(b)(4) requires that “the abstract must commence on a separate physical sheet or electronic page or be submitted as the first page of the patent in a reissue application or reexamination proceeding (§ 1.72(b)).” However, applicants believe this requirement is directed to the initially submitted ABSTRACT,

which was properly done on September 29, 2006. In the response submitted on September 8, 2009, applicants did not submit a new ABSTRACT, but merely submitted an amendment to the ABSTRACT. Nonetheless, per Examiner's request and to expedite prosecution of the instant application, a new ABSTRACT is submitted herewith on a separate sheet. No new matter has been introduced by this submission. Reconsideration and withdrawal of the pending objection to the ABSTRACT are respectfully requested.

Response to Rejections under 35 U.S.C. §112, first paragraph

Claims 2, 4, 5, 7, 9 and 12-14 stand rejected under 35 U.S.C. §112, first paragraph for lack of written description. Specifically, the Examiner contends that the instant specification does sufficiently describe a genus of variants for the amino acids within the claimed sequences. While the Examiner acknowledges that the application provides four functional variants, i.e., 1-24, 1-20, 5-24, and 2-13, the Examiner still maintains that because the specification provides no structure-activity correlation for the variants, a skilled artisan cannot predict which variant or fragment is functional. (Office Action, pg. 5.) Therefore, the Examiner concludes that "a skilled artisan would not recognize [that] applicants were in possession of the claimed invention." (Office Action; pg. 5.) Applicants respectfully disagree.

However, in order to expedite prosecution and without disclaimer of, or prejudice to, the subject matter recited therein, applicants have cancelled independent claims 2 and 4. Applicants further cancelled the dependant claims 7 and 9 and amended the dependent claims 5 and 12-14 to depend from the allowable claim 1. In light of these claim amendments, applicants respectfully believe that the instant rejection is moot. Reconsideration and withdrawal of the rejections under 35 U.S.C. §112, first paragraph are respectfully requested.

Response to Rejections under 35 U.S.C. §112, second paragraph

Claims 3 has been rejected under 35 U.S.C. §112, second paragraph for indefiniteness. (Office Action; pg. 7.) Applicants respectfully disagree. However, in order to expedite prosecution and without disclaimer of, or prejudice to, the subject matter recited therein, applicants have cancelled claim 3. Hence, applicants respectfully believe that the instant rejection is moot. Reconsideration and withdrawal of the rejections under 35 U.S.C. §112, second paragraph are respectfully requested.

Response to Rejections under 35 U.S.C. §102

Claims 3 has been rejected under 35 U.S.C. §102(b) as being anticipated by Carulli, et al. (WO01/32875). Applicants respectfully disagree. However, in order to expedite prosecution and without disclaimer of, or prejudice to, the subject matter recited therein, as noted *supra*, applicants have cancelled claim 3. Hence, applicants respectfully believe that the instant rejection is moot. Reconsideration and withdrawal of the rejections under 35 U.S.C. §102(b) are respectfully requested.

Thus, applicants respectfully submit that the invention as recited in the claims as presented herein is allowable over the art of record, and respectfully request that the respective rejections be withdrawn. In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided. Favorable action by the Examiner is earnestly solicited.

Dependent Claims

The applicants have not independently addressed all of the rejections of the dependent claims. The applicants submit that for at least similar reasons as to why independent claim(s) 1 from which all of the dependent claims 5 and 12-14 depend are believed allowable as discussed *supra*, the dependent claims are also allowable. The applicants however, reserve the right to address any individual rejections of the dependent claims and present independent bases for allowance for the dependent claims should such be necessary or appropriate.

CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application. Favorable action by the Examiner is earnestly solicited. In the event that a telephone conference would facilitate examination of this application in any way, the Examiner is invited to contact the undersigned at the number provided. Favorable action by the Examiner is earnestly solicited.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **50-4827**, Order No. 1004331.037US.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **50-4827**, Order No. 1004331.037US.

Respectfully submitted,
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